IN THE HIGH COURT OF JUDICATURE
AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1775 OF 2006

Nikunj Kirti Kanakia ...Petitioner
Vs.
The State of Maharashtra & Ors. ...Respondents

Mr.D.B.Shroff, Sr. Counsel with Sanjay Kantawala &
Mr. H.K.Sudhakara i/b. Khaitan & Co. for the Petitioner
Mrs. A.P. Pai, A.P.P for the State

CORAM: SHRI J.N.PATEL &
SMT. ROSHAN DALVI, JJ.
DATED: 19TH AUGUST, 2006

P.C.

1. Heard.

2. This Petition has been filed only for a limited relief seeking directions to Respondents for removing the name of the Petitioner from the "Look Out" list, that the Respondent No.6 passed at the instance of Respondent No.4 purportedly as a preventive measure.

3. It is in the background that the Detention Order No.PSA-1205/13(2)/SPL-3(A) came to be issued under COFEPOSA Act, 1974 against the Petitioner by the Detaining Authority

i.e. Principal Secretary (Appeals & Security), Home Department, COFEPOS Section, State of Maharashtra, Mantralaya, Mumbai.

4. On issuing of the detention order, the Petitioner moved the Hon'ble Supreme Court by way of Criminal Writ Petition No.145 of 2006 under Article 32 of the Constitution of India, inter alia, praying for quashing the detention order passed under COFEPOSA Act, 1974. The Hon'ble Supreme Court passed an order"Issue notice. In the meanwhile, there shall be stay of detention order". It is the grievance of the Petitioner that the Authorities have put the name of the Petitioner in the "Look Out" list. The Petitioner would not be allowed to travel abroad.

5. It is submitted that the Petitioner is required to go to London for a business meeting and his arrangements for travel are already made, as the meeting is scheduled to be held on 22nd August, 2006. Therefore, the Petitioner wants to leave India on Monday i.e. On 21st August, 2006.

6. It is submitted that in view of the interim order passed by the Hon'ble Supreme Court staying the order of detention there is no justification on the part of the Respondents to place the name of the Petitioner in "Look Out" list which

amounts to violation of fundamental rights of the Petitioner guaranteed vide Article 14, 19 and 21 of the Constitution of India.

7. The learned A.P.P on seeking instructions from the Respondents informs this Court that the Sponsoring Authority has sought the detention of the Petitioner under COFEPOSA which came to be passed by the Respondent No.2 the Detaining Authority. Therefore, Respondent No.6 had listed the name of the Petitioner in the “Look Out” list as preventive measure.

8. Learned Counsel for the Petitioner submits that the Court can impose necessary terms and conditions for permitting the Petitioner to leave the Country in order to attend his business meeting.

9. In our view as the matter is pending before the Hon'ble Supreme Court it will not be proper for this Court to entertain the Petition in the matter in exercise of its extra ordinary jurisdiction. With all humility at our command we may express that the interim order passed by the Hon'ble Supreme Court that there shall be stay of Detention Order, only holds the order of detention in abeyance and therefore, the apprehension which the Sponsoring Authority has and

for which they have taken preventive measures by putting the name of the Petitioner in the “Look Out” list does not in any manner violate any of the rights of the Petitioner. Therefore, we are not inclined to entertain the Petition.

Petition is dismissed in limine.

(SMT.ROSHAN DALVI, J.) (SHRI. J.N. PATEL, J.)